

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Herbert Edward Yarborough

Docket No. 5:16-CR-150-1FL

Petition for Action on Probation

COMES NOW Linwood E. King, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Herbert Edward Yarborough, who, upon an earlier plea of guilty to False Statements on a Federal Firearms Form, in violation of 18 U.S.C. §§ 922(a)(6) and 924(a)(2), was sentenced by the Honorable Loretta C. Biggs, U.S. District Court Judge, in the Middle District of North Carolina, on October 23, 2015, to a 36 month term of probation under the conditions adopted by the court.

On May 19, 2016, a Violation Report filed in the Middle District of North Carolina notified the court Yarborough tested positive for the use of cocaine. The defendant's supervision was continued without modification, and he was directed to participate in substance abuse education courses.

On June 24, 2016, jurisdiction in this case was transferred to the Eastern District of North Carolina.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

The defendant provided urine screens on January 24, 2017, and February 6, 2017, which tested positive for the use of cocaine. Yarborough admitted to this officer that he has been struggling with cocaine use. To address this behavior, and in an effort to deter future drug use, we are recommending that the DROPS Program be added to Yarborough's probation conditions, and he continue exposure to appropriate substance abuse treatment. The defendant continues to participate in counseling sessions at First Step Services in Raleigh, and he has been encouraged to consider in-patient treatment options as needed. Additionally, Yarborough has been warned that an arrest warrant could be requested from the court subsequent to any future urinalysis tests returning positive for illegal drug use.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that probation be modified as follows:

1. While under supervision in the Eastern District of NC, the defendant shall participate in the DROPS Program and, in response to detected illegal drug use, shall be confined in the custody of the Bureau of Prisons for a period not to exceed 30 days of intermittent confinement, as arranged by the probation office, in the following increments: First Use - Two Days; Second Use - Five Days; Third Use - Ten Days.

2. The defendant shall be confined in the custody of the Bureau of Prisons for a period of (5) days and shall abide by all the rules and regulations of the designated facility.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,


I declare under penalty of perjury that the foregoing is true and correct.

/s/Michael C. Brittain
Michael C. Brittain
Supervising U.S. Probation Officer

/s/Linwood E. King
Linwood E. King
U.S. Probation Officer
310 New Bern Avenue, Room 610
Raleigh, NC 27601-1441
Phone: 919-861-8682
Executed On: March 9, 2017

ORDER OF THE COURT

Considered and ordered this 9th day of March, 2017, and ordered filed and made a part of the records in the above case.



Louise W. Flanagan
U.S. District Court Judge